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Contribution to the

International Human Rights Monitoring Mechanisms: Essays in Honour of Jacob Th. Moller, Gudmundur Alfredsson, Jonas Grimheden, Bertrand Ramcharan and Alfred de Zayas (Eds.)

Part of the Raul Wallenberg Institute Human Rights Library (the “Blue Series”)
2009, Martinus Nijhoff Publishers/Kluwer Law International, Leiden/Boston.

**United Nations Permanent Forum on Indigenous Issues:
a multifaceted approach to human rights monitoring**

Introduction

At the time that the first human rights monitoring procedures of the UN Commission on Human Rights were created in the late 1960s, it was clear in the minds of states that there was a distinction between human rights monitoring and promotion of human rights. In almost four decades since, the international human rights system, especially the system developed by the United Nations, has taken on a more comprehensive approach. Today, the “naming and shaming” connected with human rights monitoring, often goes together with human rights institution building, human rights information, education and training, areas where states can seek the technical assistance of the United Nations. In addition, human rights monitoring has to be seen against the backdrop of increasing efforts of the UN system to integrate human rights in development work and humanitarian and peace operations, which in turn make monitoring relatively easier, since it can be done within an all encompassing operational framework.

Although a comprehensive analysis of this contemporary tendency is beyond the purview of this article, it is against this background that I propose to place the human rights aspects of the mandate of the UN Permanent Forum on Indigenous Issues (UNPFII). Despite the fact that the UNPFII is not a human rights monitoring body in the strict or “classical” sense of the word, I will argue that the UNPFII plays an important role in this area and has an even greater potential.

The second fundamental consideration, when examining the human rights mandate of the UNPFII, is that the Permanent Forum is itself the result of the long and systematic efforts of the international movement of indigenous peoples since the 1970s, a movement born and bred in the human rights movement. Human rights have thus been an integral part of the Permanent Forum on Indigenous Issues since its inception, and a foundation of the long struggles of indigenous peoples at the UN that led to the creation of the Forum as the highest UN body in this field.

¹ The author works at the Secretariat of the United Nations. The views expressed in this article do not necessarily represent those of the United Nations.

The first part of this article will briefly analyze the historical interface of indigenous peoples with the international community, the United Nations in particular, up to the creation of the UNPFII. The second part will analyze the mandate and practice of the UNPFII in the area of human rights and its links to other international human rights mechanisms. Finally the conclusion will identify challenges and opportunities in the Forum's discharge of its human rights mandate.

A. History of indigenous issues at the international level leading to the creation of the UN Permanent Forum on Indigenous Issues

In 1923 Cayuga Chief Deskaheh traveled to Geneva as the representative of the Six Nations of the Iroquois to the League of Nations to plead for the cause of his people. He waited one year working for recognition by the League, but was not received and went back home. A few months before his death in 1925, Chief Deskaheh made a speech by radio in Rochester, New York. The following is an excerpt:

“This is the story of the Mohawks, the story of the Oneidas, of the Cayugas—I am a Cayuga—of the Onondagas, the Senecas, and the Tuscaroras. They are the Iroquois. Tell it to those who have not been listening. May be I will be stopped from telling it. But if I am prevented from telling it over, as I hope I do, the story will not be lost. I have already told it to thousands of listeners in Europe. It has gone into the records where your children can find it when I may be dead or be in jail for daring to tell the truth. I have told this story in Switzerland. They have free speech in little Switzerland. One can tell the truth over there in public, even if it is uncomfortable for some great people. ...I am the speaker of the Six Nations, the oldest League of Nations now existing.... It is a League which is still alive and intends, as best it can, to defend the rights of the Iroquois to live under their own laws in their own little countries now left to them, to worship their Great Spirit in their own way, and to enjoy the rights which are as surely theirs as the white man's rights are his own.”²

A similar journey was made by Maori religious leader W.T.Ratana, to protest the breaking of the Treaty of Waitangi concluded with the Maori in New Zealand in 1840 that gave Maori ownership of their lands. Ratana first traveled to London with a large delegation first to petition King George, but he was denied access. He then sent part of his delegation to Geneva to the League of Nations and arrived there later himself, in 1925, but was also denied access.

It is clear that the history of indigenous peoples knocking at the door of the institutions of the international community of “nations” is old. Indigenous peoples sense of themselves as sovereign nations, in parity with the other nations of the world, has

² See website of the Secretariat of the UN permanent Forum on Indigenous Issues, www.un.org/esa/socdev/unpfii/en/history.html/

always been very strong. The fact that states, the colonizing powers, concluded treaties with many indigenous peoples is a testimony that indigenous peoples were viewed as sovereign by those who invented International Law.

There has been a vigorous and dynamic interface between indigenous peoples-- numbering more than 370 million in more than 70 countries-- and the UN, an interface that, difficult as it is, has produced at least three things: a) a new awareness of indigenous peoples' concerns and rights, b) recognition of indigenous peoples' invaluable contribution to humanity's cultural diversity and heritage, not least through their traditional knowledge, and c) awareness of the need to address the problems of indigenous peoples through policies, laws and budgets. Along with the movements for decolonization and human rights, as well as the women's movements, the indigenous movement has been one of the four strongest civil society interlocutors of the United Nations since 1945³.

The situation of indigenous peoples in many parts of the world continues to be critical: indigenous peoples face systemic discrimination and exclusion from political and economic power; they continue to be over-represented among the poorest, the illiterate, the destitute; they are displaced by wars and environmental disasters; the weapon of rape and sexual humiliation is also turned against indigenous women for the ethnic cleansing and demoralization of indigenous communities; indigenous peoples are chased out of their ancestral lands and deprived of resources of survival, physical and cultural; and they are even robbed of their very right to life, simply killed when they are too much in the way of those who pursue other political and economic agendas. In more modern versions of market exploitation, indigenous peoples see their traditional knowledge marketed and patented without their consent and participation. out of the 6000 some languages today, more than 4000 are estimated to be spoken by indigenous peoples. Specialists predict that up to 95% of the world's languages are likely to become extinct or be threatened with extinction by the end of the century; one can therefore imagine what the percentage of indigenous languages this statistic represents⁴.

i) *Indigenous issues at the UN until 1993*

In 1957 the ILO began investigations of forced labour of "native populations" and adopted a legal instrument, Convention No. 107, entitled "Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries"—later criticized as assimilationist by the indigenous movement.

In 1972 the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, launched the Study on the problem of discrimination against indigenous populations, known as "the Martinez Cobo study" from the name of the Special Rapporteur appointed to prepare it. The study began at the time of the start of the

³ For an analysis of the interface of the indigenous peoples' movement with the UN until 1993, see E. Stamatopoulou, "Indigenous Peoples and the United Nations: Human Rights as a Developing Dynamic", *Human Rights Quarterly*, Vol. 16, No.1, Feb. 1994, pp. 58-81.

⁴ *Human Development Report : Cultural Liberty in Today's Diverse World*, 2004, UNDP publication, p.6.

indigenous movement, a time of an increased involvement of Native Americans with the civil rights movement in the USA and the birth of an American Indian movement in that country. This framed the nascent international indigenous movement in human rights terms—a landmark that has characterized the movement since. The movement was firmly established in the 1970s and the first international meeting among indigenous leaders took place in Geneva, Alaska and Sweden in 1977⁵. Even the methodology of the above-mentioned UN study was adapted so as to include indigenous input and 37 monographs on specific countries were created. The final study was published from 1982 to 1984 and is the most voluminous UN human rights study and one that took the longest to complete. Augusto Willemsen Dias, a Guatemalan jurist, was the first UN official to deal with indigenous peoples' rights and was the major author of the study, with extraordinary commitment, courage and unswerving integrity. He is considered the “father” of the Working Group on Indigenous Populations⁶.

The study created a momentum that, together with the advocacy of the indigenous movement, led, in 1982, to the establishment of the first UN mechanism on indigenous peoples' issues, namely the Working Group on Indigenous Populations of the Sub-Commission. The Working Group was composed of five experts, with a mandate to “review recent developments regarding the human rights of indigenous populations, and to develop international standards”. In 1983, in an unprecedented breakthrough, the Working Group decided to allow participation in its work of representatives of indigenous communities/peoples/nations, i.e. even those who did not have consultative status with the UN Economic and Social Council, an absolute requirement for participation of non-governmental organizations at the UN until then. From some fifteen NGOs participating in 1983, about one thousand indigenous representatives participated at the Working Group during its peak times. Native American leaders were there from the beginning at the United Nations, along with leaders from Guatemala, Canada, Australia, India and other countries.

In 1984 the UN established a Voluntary Fund for Indigenous Populations to assist indigenous grass roots organizations to travel to Geneva to the Working Group. In 1989 the ILO adopted Convention No.169 on Indigenous and Tribal peoples in Independent Countries, to replace Convention No 107 that had been critiqued as assimilationist

In 1993 the Working Group completed a Draft Declaration on the Rights of Indigenous Peoples, a document held in high esteem by indigenous peoples, created with their participation and expressing indigenous peoples aspirations.

The year 1993 was proclaimed International Year of the World's Indigenous People with the goal “to strengthen international cooperation for the solution of problems faced by indigenous communities in areas such as human rights, the environment,

⁵ Hurst Hannum, “New Developments in Indigenous Rights”, 28 *Virginia Journal of International Law*, 652 (1988).

⁶ The final study is contained in UN doc. E/CN.4/Sub. 2/ 1986/7 and Add. 1 – 4.

development, education and health”⁷. Rigoberta Menchu, an indigenous leader from Guatemala, was named Goodwill Ambassador for the International Year by the Secretary-General.

It is important to underline that it is through the human rights angle that indigenous issues received significant international attention, since it is known that human rights bring out a political edge that catches states’ attention essentially because of the critique of governmental practices that the human rights debate entails.⁸

ii) Indigenous Issues at the UN after 1993

At the World Conference on Human Rights in 1993 indigenous representatives were numerous and well-organized. Those of us that were in Vienna will not forget the “S” campaign, when indigenous representatives filled the Plenary Hall of the Conference, holding big signs with the letter “S”—a reminder that they see themselves as “peoples” – not just “people”—that they are peoples with group identities claiming their right to self-determination. However, they did not yet achieve the acceptance of the “S” in Vienna. What they achieved were various proclamations⁹, including the following:

- a) States were urged to ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them.
- b) There was a recommendation to the General Assembly proclaim an International Decade of the World’s Indigenous People.
- d) The UN was asked to consider the establishment of a permanent forum for indigenous people in the UN system.

(iii) Two International Decades of the World’s Indigenous People

The first Decade, launched in 1994 and completed in 2004, adopted the special theme “partnership in action” and its programme of action was meant to raise awareness about and integrate indigenous issues in the intergovernmental, and, by extension, the governmental agendas. A Voluntary Fund was established for the Decade, which funded small community projects. Although a thorough review of the Decade is beyond the purview of these remarks, it is fair to say that the Decade did not capture in its implementation the “big picture” and did not achieve the mainstreaming of indigenous issues in terms of resources. It promoted public awareness though and helped support many community empowering projects. It is also fair to say that the aspiration expressed

⁷ General Assembly resolution 46/128, UNGAOR, 46th session, UN doc. A/RES/46/128(1992).

⁸ In fact, the women’s movement realized this around the end of the 1980s (about two decades after the indigenous movement had started doing so) and launched a campaign to integrate women’s rights as human rights in the international agenda., At the World Conference in Vienna women united under the slogan “women’s rights are human rights” and has significant results.

⁹ Vienna Declaration and Programme of Action, UN doc A/CONF/157/24.

by the World Conference on Human Rights for international cooperation funds to be devoted to indigenous-related programmes saw little implementation¹⁰. However, a major goal of the first Decade, namely the establishment of the UN Permanent Forum on Indigenous Issues, materialized in 2000, when, following a recommendation of the Commission on Human Rights, the Economic and Social Council adopted resolution 2000/22 establishing the Forum.

A Second Decade of the World's Indigenous People was proclaimed starting in 2005. With the Permanent Forum on Indigenous Issues already in place and an advocating for the Decade. The five objectives of the Decade's Programme of Action¹¹ capture the articulation of the Forum's major messages:

- (a) Promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects;
- (b) Promoting full and effective participation of indigenous peoples in decisions which directly or indirectly affect their lifestyles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent;
- (c) Redefining development policies that depart from a vision of equity and that are culturally appropriate, including respect for the cultural and linguistic diversity of indigenous peoples;
- (d) Adopting targeted policies, programmes, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;
- (e) Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national level, regarding the implementation of legal, policy and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

iv) The Declaration on the Rights of Indigenous Peoples

In 1995 the Commission on Human Rights established a Working Group to work on the Draft Declaration transmitted to it by the Working Group on Indigenous Populations and the Sub-Commission. The negotiations were difficult and Indigenous representatives again participated actively in the process. There were two main inter-linked problems for states in proclamations of indigenous rights: the right to self-determination and the issue of lands, territories and resources, especially natural resources. The Declaration is imbued with an elaborate legal articulation of human rights that spring out from these two ideas. The issue of retribution and restitution of historical injustices and distribution of resources in society is fundamental. The Declaration clearly recognizes individual and group rights in various domains, such as in the choice of modes

¹¹ UN doc. A/60/270.

of economic and social development, administration, education, health and others. At a historic decision during its first session in June 2006, the Human Rights Council, the body that succeeded the Commission on Human Rights—adopted the Declaration¹², This long-held aspiration of indigenous peoples is expected to materialize by the end of 2006 with the final adoption of the Declaration by the General Assembly.

The Permanent Forum on Indigenous Issues played an important advocacy role for the adoption of the Declaration when, at its fifth session in May 2006, the Forum expressed its conviction that a declaration on the rights of indigenous peoples will be an instrument of great value through which to advance the rights and aspirations of indigenous peoples. The Forum therefore recommended the adoption without amendments of the draft declaration by the General Assembly during its sixty-first session in 2006. The Forum also stated that this would represent a major achievement for the Second International Decade of the World's Indigenous People¹³. The Forum is explicitly mentioned in article 42 of the Declaration, which states that “[T]he United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States, shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration”. After the adoption of the Declaration, the Forum will be expected to articulate the ways in which it will carry out its obligations under the Declaration.

(v) Special Rapporteur on the human rights of indigenous people: monitoring

In 2002 the Commission on Human Rights decided to establish a Special Rapporteur on the human rights and fundamental freedoms of indigenous people to examine the situation worldwide on the basis of communications received and country-specific visits. The first Special Rapporteur, Rodolfo Stavenhagen, a well-known Mexican anthropologist, has been presenting annual reports to the Commission on Human Rights—and, since 2006—at the Human Rights Council¹⁴ and the General Assembly. As will be mentioned below, there is special cooperation between the UNPFII and the Special Rapporteur.

B. Creation of the Permanent Forum on Indigenous Issues and its human rights mandate and practice

A ten-year process of international consultation after the Vienna Conference of 1993 led to the establishment of the Permanent Forum on Indigenous Issues in 2000 by Economic and Social Council resolution 2000/22. The Forum has a unique and

¹² The Declaration was adopted by resolution 2006/2 of the Human Rights Council; the report of the Council (A/HRC/1/L.10), may be accessed via the website of the Office of the High Commissioner for Human Rights, <http://www.htm> (click on draft report of the session).

¹³ Report of the Fifth Session of the UNPFII, E/2006/43, paragraph 68.

¹⁴ The Special Rapporteur's reports may be accessed on the website of the Office of the High Commissioner for Human Rights, www.ohchr.org

unprecedented composition- namely eight of its members are nominated by governments and eight by indigenous peoples' organizations. The Forum has a broad mandate, namely to discuss economic and social development, environment, health, human rights, culture and education and to advise the Economic and Social Council and the UN system on all matters pertaining to its mandate, promote the coordination and integration of indigenous issues in the UN system, raise awareness about indigenous issues and produce material to inform about indigenous issues. This high-level body in the UN's hierarchy demonstrates the increasing political engagement of states in cooperation with indigenous peoples to address a multiplicity of issues. More than 1,000 indigenous participants from all parts of the world attend the annual sessions of the UNPFII in New York, in addition to some 70 countries and about 35 inter-governmental entities.

The mandate of the UNPFII thus clearly includes discussing human rights and providing advice in this area to the UN system, through the Council, raising awareness and producing material, promoting coordination and the mainstreaming of indigenous peoples human rights in the UN system. In fact, the specific human rights mandate of the Forum, as articulated in the Council's resolution, is unique in the United Nations as regards indigenous peoples. The Forum has pursued its human rights mandate proactively, as a body that, through its systematic advice, aims at making a "culture change" in the UN system and beyond. This change should be catalytic in terms of policies, laws, budgets and overall practice of the UN system and have an impact at the national and local level. The Forum has approached its mandate by looking at the big picture and realizing that, in order to see an end to discrimination and marginalization and effect real change in the lives of indigenous peoples, it is necessary to mobilize all relevant actors, i.e. the intergovernmental system, governments and civil society at large, including non-governmental organizations, the private sector and academia. This broad approach of the Forum is obvious if one examines the way the Forum formulates its recommendations annually. For it would be too narrow a perspective on the Forum's mandate to only target the UN system and not address the other actors who impact on the situation of indigenous peoples. It would also be too narrow a perspective because the operational arm of the UN in the areas of development, peace and security and the humanitarian field deploys essentially in developing countries-and it would be unreasonable to have the Forum address itself only to the situation of indigenous peoples in the developing world and exclude the indigenous peoples of the developed world. This point is obviously true for the human rights aspect of the Forum's mandate as well.

The question is how the Permanent Forum's human rights mandate fits in the panoply of the UN's human rights tools and methodologies of the last six decades. These international tools, developed especially through the Commission on Human Rights- succeeded by the Human Rights Council since 2006- through the international human rights treaties, the High Commissioner for Human Rights and UN field operations, consist, in summary, of the following: a) human rights standard-setting; b) human rights monitoring, through the human rights treaty bodies, the extra-conventional mechanisms of the Human Rights Council, including the Special Rapporteur on the human rights and fundamental freedoms of indigenous people, and human rights monitoring UN field missions; c) preparing studies and reports of comparative law and practice on new or

emerging human rights issues that require special attention, clarification, research and the development of international human rights policies, guidelines or standards; d) providing technical assistance and cooperation for the development or enhancement of national laws, institutions and capacities that will promote and protect human rights; e) providing an open public forum for an international discussion of human rights themes or specific country situations and giving international visibility to such situations; f) adopting resolutions/decisions on human rights, expressing the views and concerns of the international community, raising awareness and harnessing action on a number of human rights subjects or country situations.

An overview of the Forum's first five sessions (2002-2006) shows that this new body has approached the human rights aspect of its mandate in a number of ways, which are still developing. There is indeed strong interest by indigenous organizations that attend the annual sessions in the Forum being proactive, given the high visibility of the Forum and continuing human rights violations in various parts of the world.

The Permanent Forum has been supporting the work of the Special Rapporteur on the human rights and fundamental freedoms of indigenous people. The Forum annually engages in a public dialogue with the Special Rapporteur who presents his recent work to the Forum. This dialogue also gives the opportunity to the Special Rapporteur to hear statements from indigenous peoples' organizations on specific human rights issues as well as statements from states. At least one public meeting of the Forum is devoted to this dialogue, adding value to the Special Rapporteur's work, since such opportunity is not available within the Human Rights Council. In addition, the Special Rapporteur and the Forum are informed of human rights issues through the concise and comprehensive statements on the situation of human rights in the various regions, prepared and presented by the regional and sub-regional indigenous caucuses participating at the Forum's sessions. The UNPFII has thus also provided a public forum for the discussion of human rights issues of concern to indigenous peoples.

The Forum has expressed concern over the allegations of atrocities and human rights violations against indigenous peoples in a number of countries -two countries were mentioned in the report of the Second Session, four countries in the report of the Third Session- bringing these to the attention of the UN system-- while at the Fifth Session the Forum referred to the plight of indigenous peoples in two countries as result of nuclear testing in the Pacific and recommended to UN human rights mechanisms to examine the situation¹⁵.

The Forum has also promoted the mainstreaming of indigenous issues in the existing UN human rights mechanisms, through its recommendations and by inviting special rapporteurs and chairpersons of human rights bodies to make presentations at its sessions, including the Special Rapporteur on Violence against Women, the Chairperson of the Committee on the Rights of the Child, the Chairperson of the Working Group on Indigenous Populations and others.

¹⁵ See reports of the Forum's respective sessions to the Economic and Social Council: E/2004/43, para. 54, E/2006/43, para. 75.

The Forum has encouraged the holding of a number of human rights-related seminars by the Office of the High Commissioner for Human Rights and its own secretariat¹⁶. Forum members systematically attend and contribute to the human rights specific seminars organized by the Office of the High Commissioner for Human Rights.

In 2003, presented with allegations of gross violations of the human rights of indigenous peoples in the Democratic Republic of Congo due to the conflict in the area, the Forum's Bureau met with the President of the Security Council to bring the situation to his attention and appeal for the Council's urgent action. This constitutes an important precedent that follows the trend towards a systematic interface of UN human rights mechanisms with the Security Council.

In 2005, after hearing of the dramatic situation of a displaced nomadic indigenous people, the Forum decided to have a confidential dialogue with the representatives of that country and convey the deep concern of the UNPFII. In 2006 this confidential dialogue continued with a delegation of that government which traveled to meet with the Forum during the Sixth session.

Finally, the Forum has actively promoted the implementation of the human rights based approach in development operations. In fact the Forum has been a most vocal advocate of this approach in the UN system, supporting the efforts of the Office of the High Commissioner and others, especially as articulated in the Common Understanding of the Human Rights Based Approach to Development (HRBA) adopted by the UN system¹⁷. The Forum's analysis of the Millennium Development Goals (MDGs) and their meaning for indigenous peoples provided another significant opportunity for the Forum to promote the HRBA and to promote the integration of the human rights of indigenous peoples. Recommendations issued in 2005 and 2006 by the Forum included, for example, the right of indigenous peoples to full and effective participation in governance mechanisms related to the MDGs, the right of indigenous children to be educated in their mother tongue and related rights of participation of indigenous representatives in decisions on education. In addition, the Forum has asked for the integration of the HRBA in the MDG country reports and other poverty reduction strategies in countries with indigenous peoples. The Forum was presented with various desk reviews prepared by its secretariat and the ILO on the extent to which indigenous peoples and their issues are included in the UN's Common Country Assessment and UN Development Assistance Framework in various countries, as well as in poverty reduction strategy papers and MDG country reports and, given the lack of coverage or inadequate coverage, the Forum has been suggesting to indigenous organizations to contribute to this monitoring and to inform the Forum accordingly¹⁸. This idea of the Forum has the

¹⁶ For example, at its Fifth Session the Forum requested the organization of an international expert group meeting on the Convention on Biodiversity, benefit sharing and the human rights of indigenous peoples (E/2006/43, draft decision I).

¹⁷ See website of the Development Group Office, www.undg.org/content

¹⁸ See report of the Fifth Session of the UNPFII, E/2006/43, para. 26 .

potential of a tremendous increase in the monitoring capacity of the Forum as regards the human rights based approach to development, since information from agencies, states and indigenous organizations can be analyzed together in order to address the challenges at hand.

In addition to the above-mentioned ways in which the Forum is discharging its human rights mandate, it is also clear from the Forum's recommendations that human rights are integrated in and cutting across the Forum's overall work, whether the Forum discusses economic and social development, environment, health, education and culture, or considers its annual special themes. Thus human rights were clearly integrated in the recommendations on the special themes on indigenous children and youth, indigenous women and indigenous peoples and the Millennium Development Goals. The Forum, in conclusion, follows a multidisciplinary and multifaceted approach to the promotion and protection of the human rights of indigenous peoples.

Conclusion: challenges and opportunities of the UNPFII's work on human rights

The Permanent Forum's challenges in discharging its human rights mandate are as real as those of other international human rights bodies. Despite the fact that the Forum's mandate includes human rights, there is certainly a continuing reticence of states to allow too much breathing space for human rights monitoring, whether in the Forum or elsewhere. The reaction the Forum received from the governments it critiqued in its 2004 report to the Economic and Social Council, is one testimony to this continuing difficulty¹⁹. Within the context of political difficulties, the Forum has nevertheless discharged its human rights mandate with courage and vision, as I demonstrate above.

In the changing architecture of the UN human rights system, with the establishment of the Human Rights Council and related changes, the Forum is now called upon to play a special and creative role in the field of human rights. While there is no doubt that the Human Rights Council must undertake its responsibilities fully vis-à-vis the human rights of indigenous peoples, and the human rights mechanisms must not neglect to monitor, investigate and expose violations of indigenous peoples' human rights, it is unclear whether and in what form explicit attention to indigenous peoples will be devoted in the Council²⁰. The mandate of the Special Rapporteur on the human rights and fundamental

¹⁹ E/2004/43. In para. 52 of the report, it is stated: "On the basis of information received at its third session, the Forum expresses its deep concern about the alleged atrocities and human rights violations committed against the indigenous peoples concerned in Colombia, the Sudan, Ethiopia and Indonesia, notably West Papua and Maluku, and atrocities committed against indigenous peoples in other parts of the world. It urges the entire United Nations system, including the relevant bodies, to take appropriate action".

²⁰ Proposals of indigenous peoples have included the creation of a special working group of the Council to deal with indigenous peoples' rights as well as the inclusion of a permanent item on same on the Council's agenda.

freedoms of indigenous people is well recognized and established and this will presumably lead to the continuation of this procedure in the Council.

Placing the question of human rights in a historical perspective, one recalls the marginalization for decades of women's human rights issues by the UN's human rights mechanisms, an anomaly that was dynamically exposed by the women's movement at the World Conference on Human Rights in Vienna in 1993, under the slogan "women's rights are human rights". Since 1993, a lot has been achieved in terms of the attention that human rights bodies and mechanisms are paying to the human rights of women²¹. After 35 years of indigenous issues having featured prominently in the international human rights agenda, and the visibility, partnerships and solidarity that the indigenous movement has created around this agenda, it will be impossible to efface or significantly diminish the human rights angle of the UN's work on indigenous issues.

In addition to the practice it has already established, the Forum still has a large part of its human rights mandate to explore in future years, in ways that will add value to the work of the Human Rights Council, the human rights treaty bodies and of the High Commissioner for Human Rights.

Some of the areas the Forum has been approached to respond to until now but remain still unexplored include interventions on specific cases of egregious violations of human rights, standard-setting and work methods that may allow the Forum's analysis of human rights issues to go deeper and monitor and promote the implementation of the Declaration on the Rights of Indigenous Peoples.

When the Forum receives an appeal for a specific case of a gross human rights violation, the Forum's Bureau could analyze the situation, in consultation with the Special Rapporteur on the human rights and fundamental freedoms of indigenous people, and, if it deems it appropriate, consider an intervention vis-à-vis a government in order to correct the situation. The moral authority of the Forum as the highest UN body in the area of indigenous issues would be well served by such an approach.

The Forum could invite states in a periodic dialogue to discuss their implementation of the Declaration. This could take the form of inviting written submissions from states which can then be discussed at the Forum in a comprehensive and constructive manner. Such dialogues could also help identify areas where the assistance of UN agencies may be useful, to build national capacities in various areas that would help in the promotion and respect of indigenous peoples human rights. The work of the Committee on the Rights of the Child under the Convention on the Rights of the Child is one way of seeing the work of the Forum in this regard.

²¹ For an analysis of the emergence of women's human rights in the UN's human rights system, see E. Stamatopoulou, "Women's Rights and the United Nations", in Women's Rights Human Rights: International Feminist Perspectives, Julie Peters and Andrea Wolper Eds., 1995, Routledge, New York/London, pp. 36-48.

The Forum could also build much more systematically on its cooperation with the UN system to monitor the implementation of the human rights based approach to development by the various agencies. One way this could be pursued is a periodic in-depth dialogue with individual UN agencies based on reports and well-prepared research that will include the inputs of indigenous communities, where agencies deploy their programmes. Such dialogues would contribute to awareness-raising and capacity building within the agencies, as well as help in the building of partnerships with indigenous peoples and the donor community as well.

Given the unique composition of the Permanent Forum and the principle of consensus under which it operates, international standard-setting could also be explored by the Forum. International guidelines and other types of instruments and eventually a treaty on the rights of indigenous peoples could be part of this long-term agenda. International human rights standard-setting at the UN has taken place mostly through the Commission on Human Rights, but other international bodies, including the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, ad hoc committees at the General Assembly and others have at times contributed significantly to these efforts over the decades. In order to prepare in substance for such standard-setting work, the Forum will need to develop further its research capacity. The Forum has already launched research work by mandating various members to prepare papers on challenging subjects, including one mandated at the Fifth Session on the extent to which customary laws should be reflected in international and national standards addressing traditional knowledge²². Standard-setting work could be pursued by the Forum independently, if mandated by the Economic and Social Council, but also in cooperation with the Human Rights Council.

Closer cooperation and coordination among various UN bodies, exchange of expertise and a multidisciplinary approach, especially in the human rights field, are clearly in the spirit of the UN reform in the last few years and the Forum has an important contribution to make in this direction, given its rich and broad mandate.

Already in 1993 Rigoberta Menchu had said:

“ The international struggle of indigenous peoples has been of vital importance, especially during the past decade, by virtue of the space opened for the issue within the United Nations system .Indigenous peoples and the Member States of the United Nations have faced challenges in tackling the issue of the rights of indigenous peoples. Nevertheless the passage of time and the steady effort have made it clear that progress has been achieved”.

This statement is equally valid today, except that the space has been opened even bigger for indigenous issues in the United Nations through the Permanent Forum. The challenge is to move beyond international institutional developments, which have been extraordinary until now, and bring real change in indigenous peoples' lives and in the respect and promotion of their human rights.

²² E/2006/43, para. 172.

